

Remarks

The above Amendments and these Remarks are in reply to the outstanding Office Action in the above-identified patent application. Claims 1-29, 31-40 and 47-50 are currently pending. Claims 12-13, 26, 29, 31-34 and 47-49 have been amended. At least claims 12-13, 26 and 29 have been amended to correct typographical errors. Claims 30 and 41-46 have been cancelled to expedite prosecution.

Claims 1-50 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims of copending Application Nos. 10/848,369, 10/889,799, 10/889,852 and 10/890,001.

Claims 29, 41-46 and 49-50 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Publication No. 2004/0105292 (*Matsui*).

I. Information Disclosure Statement

In the Office Action, the Examiner did not consider the previously filed Information Disclosure Statements ("IDSs"). The Examiner stated:

Applicants have submitted a large number of documents for the Examiner to consider. However, it appears from a cursory review of the documents that the vast majority of them are not material to patentability and should not have been submitted. In fact, the sheer number of documents creates an undue burden on the Examiner since if each document is material to patentability, each document must be carefully considered. Office Action, page 2.

While the applicant's attorney appreciates the diligent, careful and thorough examination the Examiner has performed on the instant Application, as well as the examination of the allowed parent application (Serial No. 10/272,024), the Examiner is respectfully reminded that a vast majority of the presently cited references have already been reviewed by the Examiner in the allowed parent application. Please also see M.P.E.P §2001.06(b) which states: "If the application under examination is identified as a continuation, divisional, or continuation-in-part of an earlier application, the examiner will consider the prior art cited in the earlier application."

Nevertheless, in order to aid in the examination process, the previously filed IDSs are being resubmitted with an asterisk "*" next to the reference to indicate that the reference was cited in the parent application. I am also submitting copies of the IDS forms of the parent application that have been initialed by the Examiner, as well as Notices of References Cited which were submitted by the Examiner. Please note that by enclosing the present IDSs with an asterisk "*", initialed IDS forms of the parent application and Notices

of References Cited by the Examiner, this action and representation in no way substitutes or supplements the Examiner's independent analysis and search of the prior art that has been cited in the parent application or otherwise.

Finally, the Examiner is respectfully reminded of the burden the law places on a patent attorney as it relates to citing prior art: "A patent attorney should be encouraged to err on the side of inclusion, thereby providing as much prior art with an application as possible." (Emphasis added.) *Litton Systems, Inc. v. Honeywell Inc.*, 1995 WL 36648 *37 (C.D. Calif. 1995) *rev'd*, 87 F.3d 1559, 39 USPQ2d 1321 (Fed. Cir. 1996) *vacated and remanded*, 520 U.S. 1111 (1997), *aff'd in part, rev'd in part, vacated in part & remanded*, 140 F.3d 1449, 46 USPQ2d 1321 (Fed. Cir. 1998), *reh'g denied, suggestion for reh'g in banc declined*, 145 F.3d 1472, 47 USPQ2d 1106 (Fed. Cir. 1998).

Accordingly, the Examiner is respectfully requested to review the art cited in the presently resubmitted IDSs and return initialed IDS forms indicating such review. The review and thorough analysis of the cited prior art is greatly appreciated. The Examiner is also reminded of the art cited in the recent Office Actions of related application nos. 10/889,852, 10/889,799, 10/890,001 and 11/119,031.

II. Rejection of Claims 1-50

Claims 1-50 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims of copending Application Nos. 10/848,369, 10/889,799, 10/889,852 and 10/890,001.

Although applicant's attorney disagrees with the Examiner's rejection of claims 1-50 under the judicially created doctrine of obviousness-type double patenting, terminal disclaimers are filed concurrently herewith to advance the prosecution of the instant application. Therefore the withdrawal of the Examiner's rejection of claims 1-50 under the judicially created doctrine of obviousness-type double patenting is respectfully requested.

III. Rejection of Claims 29, 41-46 and 49-50 under 35 U.S.C. §102(e)

Claims 29, 41-46 and 49-50 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Publication No. 2004/0105292 (*Matsui*).

While the applicant's attorney disagrees with the Examiner's rejections, many of the limitations of claim 30 have been included in claim 29. Therefore, claim 29 is believed allowable.

While the applicant's attorney disagrees with the Examiner's rejections of claims 41-46, these claims have been cancelled to expedite prosecution.

Claim 49 has been amended to include many of the limitations of claim 47, therefore claim 49 and dependent claim 50 are believed allowable.

Therefore it is respectfully requested that the rejection of claims 29 and 49-50 under 35 U.S.C. §102(e) be withdrawn.


IV. Conclusion

Based on the above Amendments and these Remarks, reconsideration of claims 1-29, 31-40 and 47-50 is respectfully requested.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 501826 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

Date: May 8, 2006

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